

# The Dragun Corporation's Environmental News and Commentary

*Clarify the issue, Quantify the data, Defend the position*

January 2012

## 2012 Environmental Compliance Deadlines for Michigan and Update on Michigan's Assessment and Remediation Regulations

Below is our annual environmental compliance calendar for Michigan. In addition, there have been several changes in the way Michigan regulates site assessment and cleanup activity. Here are a few considerations:

### **Baseline Environmental Assessments (BEA):**

The BEA is now based on the Federal All Appropriate Inquiry Rules. The old designations (N – no chemical use; D – different chemical use; and S – same chemical use) are eliminated. To qualify for a BEA, you need only to document the existence of contamination. Previously, you were required to collect sufficient data to distinguish old from (potential) new contamination.

### **Due Care Plans (Section 7a):**

The Due Care provisions have been expanded to require cooperation and assistance to persons authorized to conduct Due Care response activities. Also, local governments are now subject to Due Care provisions where property will be used by the public.

### **Cleanup Criteria:**

There are no longer six categories of cleanup. Two categories now exist, residential and non-residential.

### **Response Action Plans/No Further Action Closures:**

Investigation and cleanups may now be self-implemented. What used to be known as a Remedial Action Plan (RAP) is now known as the Response Action Plan (RAP); same acronym, different meaning. The RAPs can be self-implemented and be submitted to the MDEQ for approval. The Department has 150 days to respond (previously 180 days). If the MDEQ does not respond in 150 days, the RAP is considered approved by default. Following a self-implemented closure, the owner/operator can apply for a No Further Action (NFA) determination from the MDEQ. The owner/operator can submit the NFA to the MDEQ for review (again the MDEQ has 150 days) to respond, or the plan is considered approved by default.

Finally, watch for further developments on state soil and groundwater cleanup criteria.

This is just a very brief overview of some of the changes. If you have any questions regarding application to your specific situation, please feel free to contact Jeffrey Bolin ([jbolin@dragun.com](mailto:jbolin@dragun.com)) at 248-932-0228.

## 2012 Environmental Compliance Calendar

Regulation	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
SARA <sub>1</sub> Title III, Tier II <sub>2</sub>	March 1 <sup>st</sup>			
RCRA <sub>3</sub> Biennial Hazardous Waste Report	March 1 <sup>st</sup>			
ROP <sub>4</sub> Annual Compliance Certification	March 15 <sup>th</sup>			
MAERS <sub>5</sub>	March 15 <sup>th</sup>			
Water Use Report		April 1 <sup>st</sup>		
SARA Title III, TRI <sub>6</sub>			July 1 <sup>st</sup>	
GHG Emissions Reporting <sub>7</sub>		April 2 <sup>nd</sup> or September 28 <sup>th</sup> <sub>8</sub>	April 2 <sup>nd</sup> or September 28 <sup>th</sup> <sub>8</sub>	

1. SARA: Superfund Amendments and Reauthorization Act
2. Tier II: SARA Section 311/312
3. RCRA: Resource Conservation and Recovery Act
4. ROP: Renewable Operating Permit (Title V of the Clean Air Act)
5. MAERS: Michigan Air Emissions Reporting System
6. TRI: Toxic Release Inventory (SARA Section 313)
7. GHG: Greenhouse Gas
8. For information on the Special Provisions for 2011 (reporting in 2012), see the EPA Document: Special Provisions for 2011: *Mandatory Reporting of Greenhouse Gases (40 CFR part 98)*  
<http://www.epa.gov/climatechange/emissions/downloads11/documents/2011SpecialProvisions.pdf>

### Additional Compliance News and Notes

#### **Spill Prevention Control and Countermeasure Plans (SPCC):**

The deadline for complying with the amendments to the SPCC rules was November 10, 2011 (agriculture has an extension to May 2013). SPCC plans must be reviewed every five years. Also, make sure your plan is signed and implemented.

#### **Annual Wastewater Report:**

In 2009, the Michigan Department of Environmental Quality (Effective January 17, 2010, Michigan Department of Natural Resources and Environment [DNRE]) discontinued the requirement for the Annual Wastewater Report.

#### **NPDES Permitting:**

There have been changes to the National Pollutant Discharge Elimination System permitting by the United States Environmental Protection Agency (EPA) that affect construction activity.

#### **GHG Emission Reporting:**

Beginning January 1, 2010, facilities emitting 25,000 metric tons or more per year of Greenhouse Gases (GHG) began monitoring GHG emissions. The gases covered by the rule are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFC), perfluorocarbons (PFC), sulfur hexafluoride (SF<sub>6</sub>), and other fluorinated gases, including nitrogen trifluoride (NF<sub>3</sub>) and hydrofluorinated ethers (HFE).

The EPA has provided a one-time extension of the reporting deadline to September 28, 2012, for the 12 source categories (I, L, T, W, DD, FF, II, QQ, RR, SS, TT, UU) that began collecting data in 2011 to ensure sufficient time for development and stakeholder testing of the electronic GHG reporting tool for these subparts.

If you are not sure if the GHG reporting rule applies to your facility, visit the EPA "Applicability Tool" website

<http://www.epa.gov/climatechange/emissions/GHG-calculator/index.html>

**ROP Excess Emission Reporting:**

Some permits may require more frequent reporting. Certain deviations have immediate reporting obligations.

**Biennial Hazardous Waste Report:**

Reporting required in 2012 (even years only).

*This is not intended to be an exhaustive list. Owners/operators should consider their own local, state, and federal environmental reporting requirements and whether they should conduct an environmental compliance assessment to evaluate their compliance status.*

**If you have any questions regarding environmental permitting or planning, please contact Matthew Schroeder, P.E. ([mschroeder@dragun.com](mailto:mschroeder@dragun.com)) at 248.932.0228.**



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